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2002, in which the previous rejection to claims 1-5 was continued and new §103 rejections to claims 1-7 and 9-11, claim 8 and claims 1-5 were made.

Because new rejections were made based on new art, applicant respectfully requests that the finality of this action be withdrawn and the amendments made to the claims entered. In the alternative, the amendments are believed to place the claims in condition for allowance, and therefore should be entered.

Independent claims 1 and 11 have been amended so that the composition now claims a property which must be given patentable weight. Claims 1 and 11 now require that " the gelatine capsule being xylose-hardened to an extent sufficient to inhibit peroxidation of polyunsaturated fatty acids." Ample support for this amendment is found in the specification, and specifically in the paragraph on page 5 of the specification.

Buser et al teaches to use a gelatine capsule for omega 3-polyunsaturated acids. These types of acids deal with the problem of the release of polyunsaturated fatty acid. IN order to achieve releasing the acid in the ileum for the treatment of inflammatory bowel disease Buser et al proposes to utilize a gelatine capsule coated with a poly(ethylacrylate-methyl-methacrylate).

Buser et al is silent to utilize xylose coating for gelatine capsules and to the problem of peroxidation of PUFA.

Cade et al discloses hard gelatine capsules with xylose added to a gelatine formulation during the hard gelatine capsule production. Cade et al focuses on the problem of water vapour permeability and is completely silent to PUFA's and their peroxidation.

Therefore, applicant contends that Buser in view of Cade does not make out a

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prima facie obviousness case against the claims as amended.

Even if the various §103 combinations make out a *prima facie* obviousness case, the **unexpected result** that xylose-hardening the gelatine capsule also inhibits peroxidation of polyunsaturated fatty acids renders the claims patentable. None of the cited art teaches or suggests that xylose-hardening to retard release of active ingredients, such as taught in EP 2240581 would also provide the **unexpected result** of inhibits peroxidation of polyunsaturated fatty acids. This is believed to overcome all the §103 rejections to claims 1-11.


Applicant believes that amended claim 1-11 are patentable over the cited art and respectfully requests that claims 1-11 be allowed.

Respectfully submitted,

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Marked Up Claims

The following are marked up versions of amended claims 1 and 11:

1. An oral dosage form for food, food supplements and dietetics comprising polyunsaturated fatty acids in a gelatine capsule, [which is xylose-hardened in order to slow down peroxidation of the polyunsaturated fatty acids] the gelatine capsule being xylose-hardened to an extent sufficient to inhibit peroxidation of polyunsaturated fatty acids.

11. A method for slowing down peroxidation of polyunsaturated fatty acids used for food, food supplement and dietetics comprising the step of utilizing a gelatine capsule, [which is xylose-hardened as oral dosage form for the polyunsaturated fatty acids] the gelatine capsule being xylose-hardened to an extent sufficient to inhibit peroxidation of polyunsaturated fatty acids.